



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF REGIONAL OFFICES
SYRACUSE REGIONAL OFFICE

March 27, 2024

Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse NY 13261-7336

Re: *Gazzola, et al. v. Hochul, et al.*
Index No.: 1:22-cv-1134

Dear Chief Judge Sannes:

Defendants recently filed their Answer to Plaintiff's Complaint on March 21, 2024. (ECF No. 79). The Court has calendared the parties' Rule 26 disclosures and Civil Case Management Plan deadline for March 29, 2024, and the Rule 16 conference is scheduled for April 9, 2024. ECF No. 72.

Since Defendants filed their Answer, Defendants planned on filing a dispositive motion pursuant to Fed. R. Civ. P. 12, and the undersigned communicated that intent to Plaintiff's counsel. After speaking with Plaintiff's counsel regarding this decision, she wishes to proceed with discovery.

However, as the Court is aware, Plaintiff filed a petition for a writ of certiorari before the Supreme Court of the United States, requesting that the Supreme Court grant their petition and review this Court's decision to deny Plaintiffs' motion for preliminary injunctive relief. See, Gazzola, et al. v. Hochul, et al., 23-995. Consequently, now that Plaintiff's counsel has been informed as to Defendants' intent to file a dispositive motion, Plaintiff's counsel has suggested that the parties stipulate to stay this matter until the resolution of the pending petition, to avoid having two motions pending. Where Ms. Capanna is of the opinion that a ruling on the Petition by SCOTUS does not foreclose discovery on factual issues, we agree that a ruling by SCOTUS could influence a Rule 12 motion. We share an interest in avoiding any waste of judicial resources, lest the motion have to be renewed or refiled in such an event.

Defendants are willing to stipulate to such a stay, as long as the stay provides for a full pause on discovery and its associated deadlines. In the alternative, if the Court is not willing to grant a stay, Defendants respectfully request the Court allow for Defendants to file a dispositive motion on or before April 29, 2024, and to stay all discovery deadlines, pending the resolution of Defendants' motion. Plaintiff requests 45-days to respond to Defendants' motion, to allow for both their response and to preserve their right to file a partial cross-motion for summary judgment.

Respectfully,

/s/ Aimee Cowan

Aimee Cowan, Esq.
Assistant Attorney General

cc: Paloma A. Capanna, Esq., *via CM/ECF*